

Notice of Allowability

Application No.

09/911,414

Examiner

Fred Ferris

Applicant(s)

CAMBRIDGE, RODNEY D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 13 February 2003.
2. ☒ The allowed claim(s) is/are 1-3, 5-6, 8-17, 20-22, 24-32, and 34-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 03172006
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

Fred Ferris
PRIMARY EXAMINER

DETAILED ACTION

1. *This Office Action is responsive to applicant's amendment filed on 13 February 2006. Applicants have now cancelled claims 4, 7, 18, 19, 23, and 33. Claims 1-3, 5-6, 8-17, 20-22, 24-32, and 34-39 remain pending in this application and have now been allowed over the prior art of record.*

EXAMINER'S AMENDMENT

2. *An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.*

Authorization for this examiner's amendment was given in a telephone interview with Kevin Zilka on 17 March 2006.

Amend claim 28 as follows:

Delete the last nine words in the last line of claim 28 and insert the word "and" before the words "hard drive".

Claim 28 should now read as follows:

28. The computer product of claim 27 wherein the computer readable medium is selected from the group consisting of CD-ROM, floppy disk, tape, flash memory, system memory, and hard drive.

Response to Arguments

3. *Applicant's arguments filed 13 February 2006, with respect to amended claims 1-3, 5-6, 8-17, 20-22, 24-32, and 34-39 have been fully considered and are persuasive. Accordingly, the 103(a) rejection has been withdrawn in view of applicant's amendment to the claims and arguments submitted 13 February 2006.*

Allowable Subject Matter

4. *Claims 1-3, 5-6, 8-17, 20-22, 24-32, and 34-39 are allowed over the prior art of record.*

The following is an examiner's statement of reasons for allowance:

Applicants are disclosing a method and system for maintaining and updating antivirus files within a computer network consisting of user computers, central service computer, and antivirus server by comparing the databases between central (host) computer and user (client) computer to determine if databases require updating (i.e. new files). This has been disclosed in the prior art of record.

*While these elements are all individually disclosed in the prior art, the prior art of record does not meet the conditions as suggested in MPEP section 2132, namely: "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an **ipsissimis verbis** test, i.e., identity of terminology is not required. **In re Bond**, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."*

Specifically, the prior art does not disclose the specific sequence of method steps and combination of system elements inclusive of:

- *receiving new antivirus files at user and central computer updating database*
- *comparing antivirus databases of central/user computer if new antivirus file received at central computer from server or at the user computer from the antivirus server in determining if one of databases contains new file not included in other database*
- *notifying central computer of new antivirus file on user, inquiring to update database with new file*
- *where the configuration of central and user computer send new antivirus file to other in updating such that central computer database is updatable from user and visa vera.*
- *Where central computer when central computer notified by user, user waits for request to send new antivirus file*
- *Where the central computer is configured to send new antivirus file to user to update database if determined that central computer contains new antivirus no in user*
- *Where user computer is configured to send new antivirus file to central computer to update database of central computer if use contains new file not in database and user is authorized to send new antivirus file for updating*

- *And where central computer configured to periodically updated filed from antivirus server*

In the instant case, while each of the recited limitations are individually disclosed in the prior art, the prior art of record does not explicitly disclose the specific sequence of method steps, and combination of system elements, as now required by amended independent claims 1, 20, and 27. (See specification: page 16, line 11 to page 19, line 17, and page 20, line 11 to page 21, line 8, for example)

The closest prior art uncovered during examination teaches certain limitations of the claimed invention as follows:

U.S. Patent 6,269,456 issued to Hodges: teaches a method, system, and computer code, for maintaining and updating antivirus files within a computer network consisting of user computers, central service computer, and antivirus server. Hodges includes features relating to notifying server of user update requirements and new virus definitions, antivirus signature files, automatic (i.e. periodic) file updating, and version number but does not explicitly disclose the specific sequence of method steps, and combination of system elements noted above, as now required by amended independent claims 1, 20, and 27.

U.S. Patent 6,327,594 issued to Van Huben: teaches comparing the databases between central (host) computer and user (client) computer to determine if databases require updating (i.e. new files) including comparing databases between central (host) computer and user computer to determine if databases require updating of new files. However, Van Huben again does not explicitly disclose the specific sequence of method

steps, and combination of system elements noted above, as now required by amended independent claims 1, 20, and 27.

McAfee VirusScan 4.5: discloses features which allow for the detection of new viruses at the local computer level, and subsequent notification central administrator using the programmable Orchestrator feature for configuring automatic antivirus file updates, scans, and DAT file updates using the Central Policy Reporting and Advanced Enterprise Reporting features but again does not explicitly disclose the specific sequence of method steps, and combination of system elements noted above, as now required by amended independent claims 1, 20, and 27.

The features noted above therefore render the claimed invention non-obvious over the prior art of record. Dependent claims 2,3,5,6,8-17, 21,22, 24-26, and 28-32, 34-39 are deemed allowable as depending from independent claims 1, 20, and 27.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

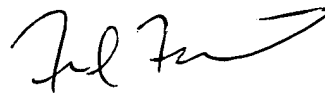
Conclusion

5. *Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 571-272-3778 and whose normal working hours are 8:30am to 5:00pm Monday to Friday. Any inquiry of a general nature relating to the status of this application should be directed to the*

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group receptionist whose telephone number is 571-272-3700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached at 571-272-2279. The Official Fax Number is: (703) 872-9306

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